

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3283-03
Bill No.: Perfected HCS for HB 1314
Subject: Crimes and Punishment; Children and Minors; Elementary and Secondary Education; Teachers
Type: Original
Date: February 27, 2008

Bill Summary: The proposal requires annual background checks on some school employees beginning January 1, 2012, adds certain offenses to the list for which a teacher certification may be revoked, and removes the statute of limitations for certain sex crimes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$56,879)	(\$62,011)	(\$63,872)
Total Estimated Net Effect on General Revenue Fund	(\$56,879)	(\$62,011)	(\$63,872)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds			

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds			

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	1	1	1
Total Estimated Net Effect on FTE	1	1	1

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, – Office of Child Advocate, Department of Mental Health, Department of Labor and Industrial Relations, Department of Public Safety – Director’s Office, Boone County Sheriff’s Department, and the Springfield Police Department** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 1314, LR # 3283-03), officials from the **Office of the State Public Defender** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Attorney General (AGO)** identify 3 provisions in this proposal that may result in additional costs to AGO. Section 162.068.2 requires that, if a school employee provides certain information regarding personnel information of a fellow employee (presumably to a potential employer), the AGO would represent the employee providing the information in the event that employee is sued for providing it. Because AGO cannot project the number of cases that could be generated from this provision, AGO assumes that costs would be unknown but under \$100,000 per year.

Section 168.071 provides some additional crimes which, if committed by a licensed teacher, would subject the teacher to automatic license revocation. Because the AGO handles these revocation cases before DESE, AGO assumes that this amended section could generate additional cases in the event a licensee commits one of the newly enumerated crimes. AGO assumes that any costs associated with this provision could be absorbed within existing resources.

Finally, Section 556.037 removes the statute of limitations for a criminal prosecutions brought when a person under age 18 is a victim of a sex crime. AGO assumes that, to the extent this change results in more prosecutions and convictions, AGO will have an increase in the number of appeals filed. AGO assumes that any increase in appeals will be modest and can be absorbed within existing resources.

ASSUMPTION (continued)

Oversight assumes the AGO could absorb any increased costs generated as a result of the provisions in Section 162.068.2. Oversight assumes any significant increase in the workload of the AGO would be reflected in future budget requests.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume the provisions in Section 168.133.2 will result in increased costs. In order to accomplish the requirements of this proposal, DESE will require 1.0 FTE administrative assistant (at \$30,624 per year) to process the additional 120,000 registry checks (120,000 employees actively teaching). The cost for an open record check is \$9; however, the Highway Patrol is currently doing this at their expense. Given the additional checks required by this proposal, it is unknown whether the Highway Patrol will continue to offer this service. If DESE is required to pay for this service, the expense would likely exceed \$1,080,000 per year. A growth rate of 3% is anticipated on an annual basis.

DESE assumes, in order to accomplish the requirements in Section 168.133.4, DESE will require 1.0 FTE administrative assistant (at \$30,624 per year) to process the additional 245,000 registry checks (120,000 employees actively teaching plus 125,000 non-certified employees). These registry checks would be additional to what is currently obtained with a background clearance. The cost for an open record check is \$9; however, the Highway Patrol is currently doing this at their expense. Given the additional checks required by this proposal, it is unknown whether the Highway Patrol will continue to offer this service. If DESE is required to pay for this service, the expense would likely exceed \$2,250,000 per year. A growth rate of 3% is anticipated on an annual basis.

DESE states OA-ITSD assumes there would be additional costs to implement the requirements of Section 168. The additional costs are estimated to be \$1.5 million to develop a new data collection and background check tracking system. Processes to send and receive data to various other agencies will be required. New data storage will be required as well as identification of data needing improvement and time spent to assist in this improvement.

DESE assumes local school districts will likely incur significant costs for the initial entry of data.

DESE also assumes the provisions in Sections 162.068 and 162.069 of the proposal will result in minimal administrative costs to local school districts.

ASSUMPTION (continued)

Oversight assumes Section 168.133.2 of the proposal clarifies what a background check encompasses and requires certain school employees to register with the family care safety registry. Therefore, Oversight assumes Department of Elementary and Secondary Education will incur no increased costs associated with these provisions.

Oversight assumes the provisions in Section 168.133.4 of the proposal requires a check of the sexual offender registry and the child abuse central registry, in addition to the already required criminal background check, on persons employed after January 1, 2005, who will have contact with pupils. Oversight assumes the proposal would permit an annual check of employed persons holding current active certificates, and would require an annual check of persons who do not hold current valid certificates. Oversight assumes this would result in approximately 125,000 background checks per year. Oversight assumes DESE would require 0.5 FTE Administrative Assistants to process the 125,000 background checks per year. Oversight estimates the cost for the FTE to be approximately \$20,000 per fiscal year. This subsection becomes effective January 1, 2012, which is beyond the scope of the fiscal note.

Oversight assumes the proposal does not make changes to provisions in Section 168 that would warrant the additional OA-ITSD costs. In response to the introduced version of the proposal (HB1314, LR # 3283-03), DESE stated OA-ITSD estimates additional costs between \$42,500 and \$54,500 for the initial year to develop a new data collection process and make changes to the existing data collection process. Processes to send and receive data to various other agencies will be required. New data storage will be required as well as identification of data needing improvement and time spent to assist in this improvement. Ongoing costs of \$2,680 are estimated for maintenance and support. Oversight assumes these same costs for this version of the proposal; however, Oversight assumes these costs would not be incurred until FY 12 because the provisions in Section 168.133.4 do not become effective until January 1, 2012, which is beyond the scope of the fiscal note.

Oversight assumes the statewide cost to local school districts for the initial entry of data would be less than \$100,000 per fiscal year.

Officials from the **Department of Corrections (DOC)** assume removing the statute of limitations in § 556.037 is the portion of this bill with a potential to fiscally impact the DOC. Convictions are difficult enough to obtain when a case is recent. It is assumed DOC would not have a sizeable increase in offenders due to passage of this bill.

ASSUMPTION (continued)

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender per day, or an annual cost of \$887 per offender).

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders;
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Health and Senior Services (DHSS)** assume they will be required to collaborate with DESE and MSHP to develop a process to allow DESE to annually review the background screening mandated in section 168.133, RSMo. The Family Care Safety Registry (FCSR) will be required to develop a process to expedite the registration of public schools staff and the subsequent background screening process.

Family Care Safety Registry Costs:

DHSS states the Department of Elementary and Secondary Education (DESE) estimates there are approximately 120,000 certified and 125,000 non-certified public school staff (245,000 total) to be screened as a result of this legislation. Based on information from DESE, DHSS assumes that this number may increase by three percent annually. The Vulnerable Citizens Audit (Report # 2007-32) issued in August 2007 states that 19,293 certified teachers and 5,226 substitute teachers are already registered with the FCSR, so DHSS estimates there are 220,481 staff that would be required to register.

ASSUMPTION (continued)

DHSS plans to modify the existing computer software to utilize batch processing in conjunction with the existing web application for both registration and background screening to expedite processing and minimize the need for additional staff. Due to the delay in implementation of section 168.133.4, without the requirement for DESE to review the background screenings of public school staff annually until January 1, 2012, DHSS expects that a number of the smaller school districts will not be able to take advantage of electronic submissions. DHSS estimates approximately 10 percent or 25,000 of the screenings will result in a finding that must be interpreted by DHSS staff to ensure accurate reporting. DHSS expects there will be an increase in paper submissions of forms for these school district employees, and estimates that 25 percent of the 220,481, or 55,120 individuals will submit their registration and requests for background screenings by mail. DHSS estimates the other 75 percent will register electronically.

DHSS estimates 1 FTE Health Program Representative (at \$32,488 per year) is capable of processing new registrations, conducting the background screenings manually and subsequently reviewing electronic submissions of 12,000 screenings annually to make the final determination and 0.50 FTE Office Support Assistant Keyboarding (at \$21,348) will be responsible for the final review and mailing of the result letters. Therefore, 5 Health Program Representative II FTE ($55,120/12,000 = 4.59$, rounded up to 5) and 2 Office Support Assistant (OSA) Keyboarding FTE ($55,120/12,000 = 4.59$, rounded up to 5 x 0.5 = 2.29, rounded down to 2) are required for the Family Care Safety Registry to complete the processing. Standard expense and equipment costs are included for these 7 FTE.

The need for FCSR staff will decrease in FY 2010 and FY 2011 after the initial registration and screening of the employees, but will increase again beginning January 1, 2012, when the annual screening requirement begins.

DHSS assumes 3% growth in staff = $245,000 \times .03 = 7,350$ "new" registrations each year. There would also be turnover of an unknown amount. Since it takes 1 HPR II and .5 OSA for 12,000 registrations, DHSS assumes 1 FTE Health Program Representative II and 0.5 FTE Office Support Assistant to handle growth in staff and any turnover.

In addition, each individual screened receives a notification of the background screening results. DHSS estimates the mailing of each notification will cost \$0.36 and therefore a request is included for the postage costs associated with the mailing of 220,481 result letters annually. DHSS assumes 12,000 notifications will be sent in FY 2010 and FY 2011. DHSS assumes the inflationary factor applied to Fiscal Year 2010 and Fiscal Year 2011 postage will be sufficient to cover any increase in the number of result letters related to growth in school staff.

ASSUMPTION (continued)

DHSS assumes there will be a need for increased staff when the annual screening requirement starts on January 1, 2012.

ITSD Costs:

DHSS cost estimates include the following Office of Administration, Information Technology Services Division (ITSD) Costs:

In order to address section 168.133.4, support from ITSD will be needed to modify the existing database used by the DHSS, Family Care Safety Registry (FCSR). The proposed language states that the Highway Patrol, the Department of Health and Senior Services, the Department of Social Services, and the Department of Elementary and Secondary Education shall develop procedures that permit an annual check of employed persons holding current active certificates under section 168.021 against criminal history records in the central repository under section 43.530, RSMo, the sexual offender registry, and child abuse central registry under sections 210.900 to 210.936, RSMo. The Department of Elementary and Secondary Education shall facilitate the development of procedures for school districts to submit personnel information annually for persons employed by the school districts who do not hold a current valid certificate who are required by section 168.133.1 to undergo a criminal background check, sexual offender registry check, and child abuse central registry check.

The modification DHSS and ITSD will need to make includes an interface with a web-based system currently in use by the Missouri Highway Patrol to schedule fingerprint appointments. DHSS assumes the application used by the MSHP collects all information currently needed to verify registration or register with the Family Care Safety Registry. Additionally, the Family Care Safety Registry would like to verify registration of approximately 245,000 teaching and non-teaching staff through a batch process. ITSD resources would be required to initially setup the batch process and on-going funds will be needed to complete the task annually.

The ITSD development will be done prior to the January 1, 2012 annual screening requirement to allow for thorough testing.

ASSUMPTION (continued)

The following ITSD costs will apply:

COST CATEGORY	FIRST YEAR	ONGOING
Consultant Cost for Analysis, Design Development, Testing and Implementation of modification needed to Collect and Store Data	\$71,760	\$3,000
0.25 FTE - Computer Information Technology Specialist II (at \$53,928 per year) – to provide project management, development support and administration/maintenance of application	\$13,886*	
TOTALS	\$85,646	\$3,000*

*The salary is only for the first year. The excel worksheet computations also include fringe benefits for the .25 FTE, however equipment and expense was not included since this is only a partial FTE for the first year.

DHSS estimates the total cost of the proposal to be approximately \$520,000 in FY 09 and approximately \$150,000 in FY 10 and FY 11.

Oversight assumes the ITSD changes would not occur until FY 12, which is beyond the scope of the fiscal note. With the January 1, 2012 effective date for Section 168.133.4, ITSD would have 6 months to development, testing, and implementation of the system.

Oversight assumes the provisions in Section 168.133.2 require persons employed after January 1, 2009, who are authorized to have contact with pupils to register with the Family Care Safety Registry (FCSR). Oversight assumes, based on information received from Department of Elementary and Secondary Education, there are an estimated 6,000 to 8,000 new school employees per year who would be required to register with the FCSR. Oversight assumes DHSS would require 1 FTE Health Program Representative II to process the additional 6,000 to 8,000 registrations per year. Oversight assumes the FTE would be housed within existing DHSS facilities. Therefore, the cost estimates do not include rent or janitorial/trash/utilities costs.

ASSUMPTION (continued)

Officials from the **Department of Social Services (DOS)** state normally when a school district concludes that a report of alleged child abuse is unsubstantiated, the investigation is terminated, the case closed, and no record is entered into the Children's Division Central Registry. The original committee substitute required reports that included an element of sexual misconduct be entered into the child abuse registry even when the allegations are unsubstantiated. The perfected version adds clarifying language that applies the same retention schedule to these unsubstantiated reports of sexual misconduct as other unsubstantiated reports; i.e., records of unsubstantiated reports made by mandated reporters are retained for five years; all other unsubstantiated reports are retained for two year.

The proposal states that the provisions of Section 168.133.4 will become effective January 1, 2012. This subsection requires DESE to develop procedures for school districts to submit personnel information annually for staff required to undergo criminal background checks and family care safety registry checks. In the previous fiscal note (FN 3283-03), the Children's Division (CD) estimated that this provision would result in additional requests for child abuse and neglect screenings. CD estimated the fiscal impact at unknown, but less than \$100,000 annually. Since CD's cost was tied to this section of the statute and this section will now not be effective until January 1, 2012, CD would have no cost for FY 09, FY 10, and FY 11. There would, however, be a long range fiscal impact beginning in the middle of FY 12.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MSHP)** assume the proposed legislation would substantially increase the number of name-based criminal history record checks performed by the Criminal Records and Identification Division. Using numbers provided by the Department of Secondary and Elementary Education, it is conservatively estimated that the minimum amount of increase in criminal record searches would be 120,000 per year.

MSHP assumes revenues would be generated by the proposed legislation. The current fee for state name-based criminal history record checks is \$9.00. $120,000 \text{ record checks} \times \$9.00 = \$1,080,000$.

MSHP does not anticipate the need for new FTE to implement the proposed legislation. However, if several bills relating to criminal background checks are enacted, the totality of requests could have a significant impact, which would require additional FTEs (Fingerprint Technicians and Criminal History Technicians). MSHP would not request additional FTEs and equipment unless the demand for the requests significantly disrupted the operation of the Criminal Records and Identification Division and it impacted the response time for the increased number of background check requests.

ASSUMPTION (continued)

Oversight assumes the revenues for the criminal history record checks would not be generated until January 1, 2012 (FY 12), which is beyond the scope of the fiscal note. Therefore, the fiscal note reflects no fiscal impact to the Missouri State Highway Patrol.

In response to a previous version of the proposal (HCS for HB 1314, LR # 3283-03), officials from the **Office of Prosecution Services (OPS)** stated past amendments to section 556.037 have proven to have a significant impact (financial and otherwise) on prosecuting attorneys.

OPS states it is difficult to determine the fiscal impact to county prosecutors by the changes in this legislation. Much of the fiscal impact is already being felt by prosecutors responding to past changes to this statute. The proposed changes to section 557.037 would add to the complexity of determining what laws to use in each case reported.

Oversight assumes the Office of Prosecution Services and county prosecutors could absorb any additional costs incurred as a result of the proposed legislation within existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Costs – Department of Health and Senior Services (DHSS)</u>			
Personal Service	(\$27,852)	(\$34,425)	(\$35,458)
Fringe Benefits	(\$12,316)	(\$15,223)	(\$15,680)
Equipment and Expense	<u>(\$16,711)</u>	<u>(\$12,363)</u>	<u>(\$12,734)</u>
<u>Total Costs – DESE</u>	<u>(\$56,879)</u>	<u>(\$62,011)</u>	<u>(\$63,872)</u>
FTE Change – DESE	1 FTE	1 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>(\$56,879)</u>	<u>(\$62,011)</u>	<u>(\$63,872)</u>
Estimated Net FTE Change for General Revenue Fund	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
POLITICAL SUBDIVISIONS			
<u>Costs – Local School Districts</u>			
Data entry costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposal requires the school superintendent to refer any allegation of sexual misconduct to the Department of Social Services, Children's Division, within 24 hours of receiving it and requires the school to report unsubstantiated and unresolved findings to the Child Abuse Registry for its internal records. Beginning July 1, 2009, certain potential employees will be asked to sign a waiver to permit employers access to the closed records, although the employee is not required to sign the waiver. (Section 160.261)

School districts are required to adopt written policies on information that may be provided about former employees. Current district employees who report on or discuss job performance when making employment decisions that affect student safety are exempt from civil liability if they act in good faith and in accordance with district policy. A school district that has allowed an employee to resign because of allegations of sexual misconduct must disclose the allegations or be directly liable to the victim and have third-party liability to the hiring district if the employee is charged with sexual misconduct in the new district. (Section 162.068)

Sexual misconduct in the second and third degree and sexual contact with a student on school property are added to the list of offenses for which a teacher's license may be denied or revoked. (Section 168.071)

FISCAL DESCRIPTION (continued)

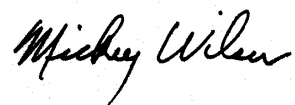
The proposal clarifies that beginning January 1, 2009, a criminal background check includes registering with the Family Safety Care Registry. The departments involved in the checking process are required to develop procedures by January 1, 2012, to allow an annual record check of holders of active teacher certificates; and the Department of Elementary and Secondary Education is required to facilitate the development of procedures for school districts to undergo annual rechecks of their noncertificated employees who are required under Section 168.133, RSMo, to undergo background checks prior to employment. (Section 168.133)

The current statute of limitation for the prosecution of unlawful sexual offenses involving a person 18 years of age or younger is repealed. (Section 556.037)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
– Administrative Hearing Commission
– Office of Child Advocate
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Labor and Industrial Relations
Department of Social Services
Department of Public Safety
– Director's Office
– Missouri State Highway Patrol
Office of the State Public Defender
Boone County Sheriff's Department
Springfield Police Department



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